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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,223	08/28/2003	ChiYumi Niwa	B422-241	6354
26272 7590 08/19/2009 COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER				
LAM, HUNG H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/650,223

Applicant(s)

NIWA, CHIYUMI

Examiner

HUNG H. LAM

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 8 and 10-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 4, 8 and 10-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendments, filed on 04/28/09, have been entered and made of record. Claims 3, 5-7 and 9 are canceled. Claims 1-2, 4, 8 and 10-12 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-2, 4, 8 and 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. Claims 1, 8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki (US-7,098,946) in view of Satoh (US-5,329,163).

Regarding **claim 1**, Koseki teaches an image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is operable switched to said first mode according to an operation to toward a first position corresponding to the first mode, and is operable switched to said second mode according to an operation to toward a second position

corresponding to the second mode (s Fig. 2; ring-like R/P button 26 and on/off button 25),

a control unit (CPU 8), which effects control of said image pickup apparatus so as to make said image pickup apparatus active in accordance with the mode corresponding to the position to which said operation member is operated to one of the first position and the second position, if said operation member is operated when said image pickup apparatus is in a non-active state (Col. 11, Ln. 9-22: the non active state is interpreted as when the camera is power off and just power on before the ring-like R/P is turned to be operated), and

switch over the mode of said image pickup apparatus to the mode corresponding to the position to which said operation member is operated, if said operation member is operated to one of the first position and the second position when said image pickup apparatus is in an active state and the current mode of said image pickup apparatus is different from the mode corresponding to the position to which said operation member is operated (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user and continue the mode corresponding to the position to which said operation member is operated to one of the first position and second position, even if said operation member is automatically forced to a third position after said operation member is operated to one of the first position and the second position.

In the same field of switches, Satoh teaches a switching system for performing manual or auto switching operation. According to Satoh, the switch will assume either an auto-up position AT.sub.UP or auto-down position AT.sub.DWN even when an operator's hand is removed from the knob K.sub.b to return it to its neutral position N (third position). Electric current flowing through either one of the auto-switches C.sub.A will allow the auto-condition retaining circuit A.R.C to assume auto-operation condition (Col. 1, Ln. 63-Col. 2, Ln. 25). In light of the teaching from Satoh, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the switch of Koseki to include manual/auto switches of Satoh in order to continue perform an operation automatically even when the operator's hand is removed from the switch and the switch is returned to its neutral position N. The modifications thus reduce switching time and quickly release operator's hand in auto switching operation.

Regarding **claim 8**, the claim is a method claim of the apparatus claim 1. Therefore, claim 8 is analyzed and rejected as previously discussed in claim 1.

Regarding **claim 10**, Koseki in view of Satoh discloses a storage medium computer-readably storing a program comprising a program code for causing a computer to execute (Koseki: Fig. 1; DRAM 11 and Memory 15) said control method of an image pickup apparatus according to claim 8 (see the rejection of claim 1).

Regarding **claim 11**, Koseki discloses an image pickup apparatus including a first image pickup mode for picking up an object image, a second image pickup mode for picking up an object image, a first image reproduce mode for reproducing a recorded image and a second image reproduce mode for reproducing a recorded image (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), said apparatus comprising:

an operation member which is operable toward a first position corresponding to the first and second image pickup mode, and is operable toward a second position corresponding to the first and second image reproduce mode (Fig. 2; see ring-like record/playback button 26); and

a control unit (CPU 8) which controls mode switching of said image pickup apparatus so as to switch over the mode thereof between the first pickup mode and the second pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode, switch over the mode of said image pickup apparatus to one of the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode (Col. 11, Ln. 9-22),

switch over the mode of said image pickup apparatus between the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode, and switch over the

mode of said image pickup apparatus to one of the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user and continue the mode corresponding to the position to which said operation member is operated to one of the first position and second position, even if said operation member is automatically forced to a third position after said operation member is operated to one of the first position and the second position.

In the same field of switches, Satoh teaches a switching system for performing manual or auto switching operation. According to Satoh, the switch will assume either an auto-up position AT.sub.UP or auto-down position AT.sub.DWN even when an operator's hand is removed from the knob K.sub.b to return it to its neutral position N (third position). Electric current flowing through either one of the auto-switches C.sub.A will allow the auto-condition retaining circuit A.R.C to assume auto-operation condition (Col. 1, Ln. 63-Col. 2, Ln. 25). In light of the teaching from Satoh, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the switch of Koseki to include manual/auto switches of Satoh in order to continue perform an operation automatically even when the operator's hand is removed from the

switch and the switch is returned to its neutral position N. The modifications thus reduce switching time and quickly release operator's hand in auto switching operation.

Regarding **claim 12**, Kudo discloses a control method of an image pickup apparatus including a first image pickup mode for picking up an object image, a second image pickup mode for picking up an object image , a first image reproduce mode for reproducing a recorded image and a second image reproduce mode for reproducing a recorded image, that image pickup apparatus having an operation member which is operable toward a first position corresponding to the second mode, and is operable toward a second position corresponding to the first and second image reproducing mode (Fig. 2; see ring-like record/playback button 26 on the circumference of power switch button 25), and, said control method comprising:

the step of controlling mode (CPU 8) switching of said image pickup apparatus so as to switch over the mode thereof between the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode, switch over the mode of said image pickup apparatus to one of the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image pickup mode and the second image pickup mode (Col. 11, Ln. 9-22),

switch over the mode of said image pickup apparatus between the first image reproducing mode and the second image reproducing mode if said operation member is operated to the second position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode, and switch over the mode of said image pickup apparatus to one of the first image pickup mode and the second image pickup mode if said operation member is operated to the first position when said image pickup apparatus is in one of the first image reproducing mode and the second image reproducing mode (Col. 11, Ln. 15-22).

However, Koseki fails to explicitly disclose the operation member further itself is automatically forced to be suppressed to a third position different from each of the first position and second position when said operation member is not operated by a user and continue the mode corresponding to the position to which said operation member is operated to one of the first position and second position, even if said operation member is automatically forced to a third position after said operation member is operated to one of the first position and the second position.

In the same field of switches, Satoh teaches a switching system for performing manual or auto switching operation. According to Satoh, the switch will assume either an auto-up position AT.sub.UP or auto-down position AT.sub.DWN even when an operator's hand is removed from the knob K.sub.b to return it to its neutral position N (third position). Electric current flowing through either one of the auto-switches C.sub.A will allow the auto-condition retaining circuit A.R.C to assume auto-operation condition (Col. 1, Ln. 63-Col. 2, Ln. 25). In light of the teaching from Satoh, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify the switch of Koseki to include manual/auto switches of Satoh in order to continue perform an operation automatically even when the operator's hand is removed from the switch and the switch is returned to its neutral position N. The modifications thus reduce switching time and quickly release operator's hand in auto switching operation.

4. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koseki in view of Satoh and further in view of Ejima (US-2002/0,008,765).

Regarding **claim 2**, Koseki in view of Satoh fails to explicitly disclose an image pickup apparatus according to claim 1, wherein during said second mode, said control unit shifts said second mode to said first mode without operating said operation member, and according to an operation of an operation member related to photographing, different from said operation member related to the first and second modes.

In the same field of endeavor, Ejima teaches a camera which performs a photographing operation immediately by operating a shutter release button (5) even in the quick review mode (0095-0096). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki and Satoh to perform a photographing operation even in the quick review mode. The modifications thus allow a digital camera to capture any desired images at any instances.

Regarding **claim 4**, Koseki in view of Satoh fails to explicitly disclose an image pickup apparatus according to claim 1, wherein said control unit withdraws a lens barrel according to the operation to said second position by unit of said operation member, when said lens barrel is fed forward in a state of said second mode.

In the same field of endeavor, Ejima teaches a camera wherein a photographing zoom lens 2, which has been driven out retracts to the state shown in Fig. 1A if the electronic still camera 1 is switched to the reproduction mode (0038; 0053). In light of the teaching from Ejima, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Koseki in view of Satoh to retract a photographing zoom lens in the reproduction mode. The modifications thus provide a means for protecting the photographing zoom lens while images are reviewed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG H. LAM whose telephone number is (571)272-7367. The examiner can normally be reached on Monday - Friday 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Sinh Tran/
Supervisory Patent Examiner, Art Unit 2622